No. 5 Orig.
Reply Br. of Crow v. Schnurmacher for Compl't.

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In the Supreme Court of the United States.

OCTOBER TERM, 1900.

THE STATE OF MISSOURI,
Complainant,
vs.
THE STATE OF ILLINOIS AND THE SANITARY DISTRICT OF CHICAGO,
Defendants.

ORIGINAL,
No. 5.

COMPLAINANT'S REPLY TO SUPPLEMENTAL BRIEF FOR DEFENDANTS.

EDWARD C. CROW,
Attorney General of Missouri.

B. SCHNURMACHER,
Of Counsel for Complainant.

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The attention of the Court is directed to the fact that the cases cited by defendants, where injunction was refused to aid in the suppression of a public nuisance, were in each instance, cases where the act complained of was fully completed, and where the nuisance was not a running and continuing one, resulting from conduct *renewed from day to day.* The cases all turned upon questions of purpresture, and related to permanent structures already existing when equity was appealed to.

The Bill in this case is not directed against *the structure* known as the Drainage Channel, nor does it seek to restrain its use as a water-way or ship canal. The relief prayed is against the sending of sewage and filth through it, by artificial means, into the Mississippi River, to the destruction of the primary use of that water; at least to the injury of its natural condition of purity.

The thing complained of is not merely an act which *has been done*, but something which *is being done*, or will be done, from day to day,—something which is being repeated each moment, and each repetition of which is the basis for new complaint.

This distinction will be found to run through the cases cited in the brief already on file for complainant, and is particularly applicable to cases bearing upon the pollution of running streams.

EDWARD C. CROW,
Attorney-General of Missouri.

B. SCHNURMACHER,
Of Counsel for Complainant.